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DEPARTMENT FOR CA/FPP

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SUBJECT: FRAUD SUMMARY - GERMANY - MARCH - AUGUST 2009

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A. COUNTRY CONDITIONS: The Federal Republic of Germany is located in the heart of Europe. It is a member of the European Union, NATO, the EU's Schengen Agreement, and has been U.S. Visa Waiver Program country since 1986. Germany is considered a low fraud country and host government corruption is not an issue. However, because the embassy and consulates in Mission Germany handle NIV and IV cases involving over 160 nationalities, fraud awareness is vital. Due to the large number of third-country nationals residing in Germany and transiting the country, consular operations in Mission Germany can and do encounter a variety of document fraud. The international airports in Frankfurt, Munich, Berlin, Hamburg, Duesseldorf, Hannover, Cologne/Bonn and Stuttgart are also used for illegal migration to and through Germany.

Since the 1950s post-war boom, the German economy has been dependent on immigrant workers. Though many so-called "guest workers" returned to their home countries in South and Southeast Europe, many remained. This has resulted in Germany gradually changing from a country that accommodated guest workers to a country with regulated immigration. Repatriates of German descent, who for generations have been living in the states of the former Soviet Union, Romania and Poland, are also a major group of immigrants. Since the collapse of the communist systems they have been returning to Germany in increasing numbers.

There are 6,728,000 foreigners, almost nine percent of the population, living in Germany (2008). An additional 1.5 million people are naturalized Germans and 4.5 million are German descent repatriates. Approximately 15 million people in Germany have an immigrant background, which the German Statistics Office defines among others as naturalized foreigners as well as children with one foreign parent. Among the foreigners, 1.7 million people are of Turkish citizenship, followed by Italians (528,000), Poles (384,000), Serbs and Montenegrins (330,000), Greeks (295,000), Croats, Russians, Austrians, Bosnians, Ukrainians, Portuguese, Spanish and others. Germany also houses over one million refugees.

As a result, citizenship and residence laws have also changed over time. In January 2000, a more liberal German citizenship law went into effect. A child born in Germany now automatically acquires German citizenship if one parent has been residing in Germany for at least eight years and has a valid "Right to Abode" permit, or has been in Germany for a minimum of three years and is in possession of an unlimited residence permit. If the child is eligible for other citizenships, at the age of eighteen, s/he must choose whether to remain a German citizen.

To become a German citizen, one generally has to be legally residing in Germany for 8 years and have fulfilled certain conditions such as: a valid "Aufenthaltserlaubnis" or "Aufenthaltsberechtigung"; a livelihood-guarantee showing no recourse to social welfare or unemployment benefits (exceptions made for people under 23 years of age); adequate knowledge of the German language; take an oath to the German constitution; give up prior citizenship (although there are exceptions). Since September 2008, foreigners are also required to

answer 17 of 33 multiple choice exam questions correctly. Spouses and children can often be naturalized even if they have not been living in Germany for eight years. For spouses of German citizens, the couple must have been married for two years and the spouse resident in country for three years before the application can be made.

In early 2005, a new Immigration Law (Immigration Act) consolidated the previous five types of residency into two - the "Aufenthaltsgenehmigung" (limited Residency Permit) and the "Niederlassungserlaubnis" (unlimited Right to Abode). Both German and foreign nationals resident in Germany must register with local authorities and notify the government if they change residences.

The standard of living in Germany is high. The average gross monthly income in the 4th quarter 2008 of a full-time industry and service employee was approximately USD 4300 (EUR 3100). Wages vary by region and hourly wage earners also earn less.

In order to pursue paid employment, all foreigners who are not nationals of an EU member state or member of the European Economic Area, need a residence permit. EU citizens are generally exempt from this requirement, though citizens of some new EU member states may also require additional EU employment documentation. Non-EU nationals of certain countries (Tourist Visa Waiver) do not need a residence permit for stays of up to three months, provided they have a valid passport.

Labor migration is governed by the German Residence Act, the Ordinance governing residence and the Ordinance on the admission of foreigners for the purpose of taking up employment. The Residence Act establishes the principle that the employment and self-employment of foreigners are to be oriented on Germany's

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economic needs, taking into account the labor market situation and the need to reduce unemployment. A ban on recruiting foreign labor remains in effect for unskilled and less-skilled workers; even skilled workers will be granted work permits only in exceptional cases. On the other hand, conditions for highly skilled workers (i.e. engineers, software technicians) and their families have now been improved under the residence law. Self-employed persons may be granted permission to work if exceptional economic interest or special regional needs exist, if the planned business is expected to have a positive economic effect, if it has secure financing, and if it creates employment. Self-employed persons can be granted a settlement permit after three years if their business is successful and their livelihood is assured.

1B. NIV FRAUD: Using H&L funding from CA/FPP, Frankfurt hosted a Mission Germany fraud conference on September 9-11. The theme was "Beyond Indian IT, New Trends in H&L Fraud." Four LES and three FSOs from Berlin and Munich attended, along with Frankfurt NIV, ACS, IV and DHS officers. CA/FPP and DS/DBFTDF sent speakers and DVCs were held with KCC and Chennai. Invitations were also extended to other European posts to attend at their own cost, and Bern, Stockholm, London, Kyiv and Paris participated. See septel.

German posts process nationals of over 160 countries annually. On any given day, visa applicants hail from any continent and demonstrate varying degrees of compelling ties to Germany and the country of their nationality. The most common NIV fraud cases involve B1/B2 and H and L applications. Typical fraud cases feature applicants who provide questionable documentation, such as fraudulent employment letters, invitation letters and bank statements.

Many of Mission Germany's H visa fraud cases involve Indian nationals. In most questionable H fraud cases we note common inconsistencies, such as non-existent U.S. business addresses, an unconvincing internet business presence, telephone numbers leading to non-personalized voice mailboxes or private individuals, businesses not registered with Dun and Bradstreet and Lexis-Nexis reports that expose small companies operating from a home residence.

In 2006, alleged misuse of SOFA status by military members stationed in Germany was investigated by an Army CID Task Force. The reported

misuse involved soldiers, many of them originally from West African countries, who brought family members to Germany to reside with them, even when these same family members lacked adequate documentation to establish eligibility for Immigrant Visas. FPU worked with the task force to determine to what extent suspect individuals may have sought and received visa, immigration or passport benefits they were otherwise not entitled to. The investigation prompted a change in SOFA card issuance procedures in country. Now, all non U.S. citizen or lawful permanent resident SOFA recipients must have, at a minimum, an I-130 immigrant petition approved by USCIS or authorization from the host country government to remain in order to receive SOFA status and benefits. FPU works closely with USCIS in evaluating these petitions for possible fraud.

Frankfurt's FPU conducts daily random checks of NIV applicants. Frankfurt's NIV line officers have all participated in recent refresher fraud prevention training and all incoming line officers participate in one-on-one FPU training during their first weeks at post.

During this reporting period, 18 NIV cases were referred for Frankfurt FPU investigations. Most were employment verification cases generated through FPU random checks on the line and by officer referral. Two cases were for H1B petitioners. The investigation provided sufficient evidence to question the bona fides of the petitioner for possible petition revocation. Six "snitch letters" reporting intending immigrants seeking NIVs were received and evaluated. Additionally, Frankfurt FPU was informed by its counterpart in Tel Aviv about a law firm that is connected to Dead Sea Industry Fraud. Furthermore, Frankfurt FPU enters all relevant data into the system for all lost/stolen passports with NIVs and for received DHS/CBP I-275s.

Frankfurt participates as a test post for the Fraud Case Management System currently in beta testing. It is a good step in the right direction, but we also regularly share our experience with the design team.

Frankfurt FPU assisted the NIV Unit in conducting inquiries on Iranians in reference to an Iranian Validation study (Frankfurt 1722). 93.4% of the B1/B2 visa applicants complied with their visas. Of the remaining 6/6% who did not return, two groups emerged - travelers over the age of 60 with immediate family members living in the U.S. (overstay or adjustment of status) and applicants under the age of 35 with promising career potential (asylum claims and change of status).

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Munich FPU routinely performs document checks several times a week and examined 16 potential NIV fraud cases in depth. Three cases were referred to Frankfurt for more extensive investigative work.

During the reporting period, Munich evaluated two petitions that it will return to KCC for USCIS. One is a shell L petition, in which the beneficiary owns the L company and petitioned for himself; and the other is an H1B for a part-time Chilean insurance agent going to work for State Farm so he can join the entire family already in the United States.

During the summer student rush, Munich also noted a possible trend of language schools issuing I-20s for 12 months, when the language class program was to last a few weeks. KAPLAN Aspect was one of the schools noted. Applicants seemed to indicate they might be have internships, a J activity, after the language classes ended.

Berlin FPU pulled NIV interview cases randomly during the reporting period which resulted in simple 214(b) refusals. Berlin's in-depth fraud efforts from March to August continue to center on Indian H1-B visa applicants. Two petitions from SVV Technologies were returned to USCIS via KCC for revocation based on petitioner ability to provide a qualifying position for the applicants. The company president entered the US on an H1B in 1999 and the headquarters was a mortgaged, residential house owned by him and his H4 wife. Wage records showed the president and his director wife received no

salaries from the company and the company's federal taxes were insufficient to pay the salaries of the alleged employees.

C. IV FRAUD: Frankfurt is the only post in Mission Germany that processes Immigrant Visas. Like other posts, Frankfurt encounters document fraud that purports to establish family relationships or entitlements to labor certification. Marriage fraud continues to be an issue, particularly in conjunction with the large U.S. military community in Germany. The FPU performs regular random checks of IV applicants. During March - August 2009, FPU received four referrals from the IV Unit.

In two cases of American citizens trying to obtain immigration benefits for family members, post sought the assistance of Lagos and Banjul FPU for document verification. In another case, FPU was able to prove that an American military petitioner was never legally married to his Philippine wife. The IV Unit and FPU work closely with USCIS Frankfurt since it adjudicates the I-130 petitions that constitute 70% of the IV workload.

D. DV FRAUD: During March - August, two DV fraud referrals were received by FPU for confirmation of African educational documents. Addis Ababa FPU confirmed the Ethiopian certificates were genuine; but, Freetown reported the WEAC certificate from Sierra Leone was fake.

E. ACS AND U.S. PASSPORT FRAUD: Local police stations, the Federal Police and city authorities often ask for assistance in verifying suspect U.S. passports and/or U.S. identity documents. Mala fide travelers are often intercepted during screening at German borders and are either in possession of photo substituted U.S. passports or are imposters. German authorities routinely refer U.S. documents such as passports and driver's licenses to the ARSO-I to determine if they are possibly fraudulent or are being used by imposters.

Frankfurt's ACS Branch, in conjunction with the ARSO-I, also conducts monthly fraud prevention training for passport agents from the DOD installations under the supervision of DOD's Integrated Management Command (IMCOM) for Europe. The most recent training sessions took place in September. Attendance at each class is between 10-15 military acceptance agents from Germany, Kosovo, Italy, the Netherlands, Belgium and Turkey. These training sessions focus on detecting fraudulent documents and observation of suspicious behavior of military passport/CRBA applicants.

The ACS Branch and the ARSO-I also participated in document review and fraud training at the annual DOD Heidelberg Conference in May, which is sponsored by IMCOM and CA/PPT/SIA for the processing of official passport applications. In 2010, the annual conference will include a presentation from Children's Issues regarding child abduction cases and indicators to look for when processing passport applications.

In addition to formalized training, the ACS Branch visits each installation during the year to provide guidance to individual military acceptance agents and their supervisors. This informal "inspection" ensures that controls are in place and reinforces proper procedures for passport application processing.

From March to August 2009, Frankfurt ACS referred 10 suspect citizenship/passport applications to the ARSO-I; there are now 20 cases under active investigation. Examples of these complex fraud

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cases include delayed birth registration by a idwife on the Mexican border, paternity claimed by a quadriplegic, and a Middle-Eastern applicant with three different dates of birth. By taking the lead on the numerous passport/citizenship fraud referrals and assisting with in-depth fraud training of military acceptance agents, the ARSO-I has provided the Frankfurt ACS Branch enhanced capability to maintain the integrity of passport and nationality adjudications.

The Munich FPU assisted its ACS section with some quick document checks during the reporting period.

F. ADOPTION FRAUD: The Frankfurt Immigrant Visa Unit issued 5 IR-3 and no IR-4 cases from March to August 2009.

Germany is a receiving country for international adoption. The number of foreign adoptions by Germans has increased due to a lack of children available locally for adoption. Foreign national children automatically acquire German citizenship once adopted by German nationals. There is no centralized court system governing adoption cases in Germany. This means that each Federal State is locally responsible for the effectiveness and legality of the adoption. Adoptive parents must be 25 years of age (though one may be 21 if part of a couple) and declared "fit" for work. Adoption agencies and the German Youth Welfare Department ("Jugendamt") require the following documents at the start of the adoption process: an application for adoption; birth certificates; marriage certificate; divorce certificates if applicable; resume/curriculum vitae for both parents; police certificates; medical attestations; proof of citizenship; earning/bank statements; and character references. After an investigation and interview, the Jugendamt issue an initial approval valid for two years. A one year foster period is required prior to full adoption. The paperwork/investigation process generally takes between four and nine months. Germany is a signatory to the Hague Convention on Inter Country Adoption, so for international adoptions, prospective adoptive parents would have to follow the Hague procedures, including using an adoption provider certified under the Hague.

G. USE OF DNA TESTING: Due to the high number of third-country applicants, the IV Unit occasionally requests DNA testing for cases where identity and birth records are lacking. USCIS Frankfurt reports it is increasingly requesting DNA testing in similar circumstances. In the past six months, ACS has also requested DNA testing to establish paternity in two citizenship adjudications. There are no operational concerns.

H. ASYLUM AND OTHER DHS BENEFIT FRAUD: Germany has not encountered any significant fraud with regard to Visas 92/93 cases or other DHS benefit fraud. The Immigrant Visa Unit had four Visas 92 cases (9 applicants total) and no Visas 93 cases from March through August 2009.

The Frankfurt FPU works closely with DHS/USCIS and also assists in document examination and verification. During the reporting period, Frankfurt FPU assisted four colleagues at DHS/USCIS offices in Florida and Philadelphia in verifying German documents (i.e. vital documents, school documents) and prior residence status. The FPU also worked with the Frankfurt DHS/CIS office to verify a birth certificate from Sierra Leone. FPU was able to confirm its bona fides from Embassy Freetown.

I. ALIEN SMUGGLING, TRAFFICKING, ORGANIZED CRIME, TERRORIST TRAVEL:

In May 2009, the Federal Minister of the Interior, Wolfgang Schaeuble, and the president of the Federal Office for Protection of the Constitution, Fromm, presented the Protection of the Constitution Report ("Verfassungsschutzbericht") for 2008. As in previous years, the current security situation remains the same. The threat of Islamist terrorism continues, although there have been no attacks in Germany so far. The rise of force within right-wing extremist groups also continues to be reported as a cause for concern.

Germany ranks as a Tier 1 country on the 2008 Trafficking in Persons Report. Germany is a transit and destination country for men and women trafficked for the purposes of commercial sexual exploitation and forced labor, including in the construction industry, in restaurants and ice cream parlors, and as domestic servants. Victims are primarily trafficked from Central and Eastern Europe and Nigeria to and through Germany to the United Kingdom and Scandinavian countries. German nationals are also victims of commercial sexual exploitation within Germany. German nationals traveled to Thailand, Vietnam, and other countries for the purposes of child sex tourism.

J. DS CRIMINAL FRAUD INVESTIGATIONS: Frankfurt's H/L funded ARSO-I Christian Shults works directly with consulate, Washington, U.S. military and host government authorities to counter fraud, further enhancing both DS's and CA's ability to interdict criminal activity.

During the reporting period, Christian initiated an on-going criminal investigation with the U.S. military on certain citizenship cases incorrectly processed by U.S. passport acceptance agents at a U.S. base. The DHS/ICE Visa Security Unit (VSU) officer is also active in reviewing NIV and IV cases. All three visa security components in Frankfurt work closely together and with other agencies on issues related to border security and fraud. A new USCIS Fraud Detection and National Security (FDNS) analyst, Adonis Rubenstein, arrived in September 2009.

1K. HOST COUNTRY PASSPORT, IDENTITY DOCUMENTS, AND CIVIL REGISTRY:

Passport (ePass): Germany's biometric passport, called "ePass," was introduced in November 2005. The passport stores the bearer's identity data, sex, nationality, document serial number, issuing country, document type and the date of expiration. A second generation 'ePass' was introduced on November 1, 2007 and also includes two fingerprints and a passport number composed of nine alphanumeric digits. As a rule, electronic passports including fingerprints are issued to persons aged 12 and older. However, at the parents' request, an ePass may also be issued to children, although no fingerprints are taken from children under six years of age. Passports issued to persons aged 24 and older remain valid for ten years. Passports of persons under 24 are valid for six years. All pre-ePass passports remain valid until their expiration.

Temporary Passport: Germany's Temporary Passport is machine readable and is valid up to one year; however, there are no biometric markers. Passport agencies may require documents such as airline tickets as proof of the immediate need. DHS had determined that as of May 1, 2006 German temporary/emergency passports are no longer valid for travel to the United States under the Visa Waiver Program due to inadequate controls over the passport book stock and less-than-timely reporting of lost/stolen temporary passports to a central authority that would make the information available to CBP Officers at U.S. ports of entry.

Documentary requirements for ePass and Temporary Passports: Passport applicants must present a previous passport, children's passport, identity card or their birth certificate at the time of application.

Children's Passport: Germany's Children's Passports (Kinderpass, Kinderreisepasse) are machine readable and contain a digital photograph, but they do not have an electronic chip. The passport can be obtained up to the age of 12 and is valid for six years. As of November 1, 2007, children are no longer endorsed in their parents' passport. The Child Passport is not valid for use in the Visa Waiver program. This frequently causes problems for traveling families as they try to board flights using visa waiver. The child will have to apply for an NIV or get a regular e-passport.

Documentary Requirements for Children's Passports: In order to obtain a Children's passport, parents or guardians must present a previous passport, the previously issued Child Travel Document (Kinderausweis) or birth certificate, and (declaration of) consent of the legal guardian. In case of only one legal guardian then that person must present proof of the right to custody.

Identity Cards: All persons aged 16 and over can obtain an ID card. Since November 2007, ID cards are also available for all children irrespective of their age, for travel within the European Union. ID cards issued to persons aged 24 and older are valid for ten years. Identity cards issued to person under 24 are valid for six years.

In November 2010, Germany plans to introduce a new electronic personal identification card ("Elektronischer Personalausweis") to replace the current ID card. The electronic ID card will be the size of a credit card and its main feature is an integrated chip storing the ID card data. This will also allow the bearer to securely identify him/herself in the internet (e.g., for bank transactions).

ID Card Documentary Requirements: An old Child Travel Document (Kinderausweis), Children's Passport or birth certificate and

declaration of consent of the legal guardian; if there is only one legal guardian that person has to present proof of the right to custody.

If an identity document (IDs, passports) is lost/stolen in Germany, residents should report the loss to the local town hall and police. The police then enter the document into a nationwide police lookout system (Sachfahndung). Lost passports and ID cards should also be reported to the responsible passport office. Any ID document reported lost, but then found, should also be re-reported as found.

L. COOPERATION WITH HOST GOVERNMENT AUTHORITIES: The Consular Sections in Frankfurt, Berlin, and Munich have established close

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working relationships with the German Federal Police, Customs, Airport authorities and city officials. German authorities have been very cooperative with document verification requests. It is sometimes difficult to request basic data for Visas Viper purposes from German law enforcement authorities due to the German privacy laws, but Mission elements work together to get appropriate information.

Germany and the United States are moving closer to a bilateral agreement on increasing cooperation on fighting serious crime. Germany and the U.S. plan to expand their information sharing in order to ensure effective prevention and prosecution of serious crime, especially terrorism. The agreement allows suspects' personal data to be transmitted in accordance with applicable national law, in certain cases even without being requested, if there are reasonable grounds to believe that the suspects may commit terrorist acts or crimes related to terrorism, or that they are or have been engaged in training to carry out terrorist acts. The agreement also creates a basis for the automated exchange of fingerprint and DNA data using a hit/no hit procedure modeled on the Pruem Treaty which was signed by several European Member States in 2005. In June 2008, the Federal Cabinet authorized the signing of the agreement following a March 2008 meeting between the German Federal Justice and Federal Interior Ministers and the U.S. Attorney General and Secretary of Homeland Security. In July 2009, the U.S. and Germany discussed implementation arrangements during German technical consultations in Washington with DHS and the FBI. Since German law regarding the right to privacy differs from U.S. law, both sides are proceeding carefully in order to make the agreement workable.

M. AREAS OF PARTICULAR CONCERN:

In late 2007, nine countries joined Schengen. These are Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Slovenia and Malta. Checks at internal borders (land and sea) stopped on December 21, 2007 and checks at international airports for flights between these new member states were discontinued as of March 30, 2008. The lifting of border formalities between Germany and its neighboring countries has led to a slight rise in illegal immigration in Germany.

N. STAFFING AND TRAINING: The Fraud Prevention Unit in Frankfurt has coordination responsibilities for all consular posts in Mission Germany. The FPU consists of three full time LES positions. Frankfurt's Visa Branch Chief serves as the Fraud Prevention Manager (FPM). The FPM attends the monthly mission-wide Law Enforcement Working Group. Two new LES fraud assistants joined the team in June and July 2009 and are in training.

Given Frankfurt's role as a regional training center, the FPU regularly works with other training programs. In March, the senior FPU LES worked with the Regional Consular Officers to provide fraudulent document training to 28 LES from Africa, Asia and Europe attending the annual RCO training workshop in Frankfurt. The FPU and the DHS/CBP-IAP team leader provided fraud training in August to Frankfurt airport personnel who conduct checks for U.S. bound flights. These fraud trainings focus on U.S. entry requirements, impostor training, detection of altered documents as well as passenger analysis. During the reporting period, further training was

conducted at Duesseldorf airport as well. In addition, the FPU, the DHS/CBP IAP team leader, the Canadian ALO, the UK ALO and representative from German Federal Police conduct joint fraud trainings to airport personnel upon request. Likewise, LES colleagues from other posts continue to visit the FPU while in Frankfurt attending courses. Such training visits include an overview of FPU's operations, random checks, databases, trends, filing systems, archives, and intranet site.

In June, the FPM attended a meeting of the Frankfurt Airline Liaison Group. The group consists members from Canada (Immigration Counselor), the UK (now ILMs - Immigration Liaison Manager), the U.S., New Zealand, Australia, the German Federal Police and DHS/CBP as well as the Frankfurt FPU. The meeting was hosted at the Frankfurt airport by the British ILMs and the German Federal Policy. Briefings focused on fraud trends observed at Frankfurt International airport. In early September, the senior LES in Frankfurt attended an annual training program with the German CID.

Berlin designated two LES to assist with fraud prevention during the reporting period. In addition to attending the Mission Germany H&L Visa Fraud prevention conference in September 2009, they completed some on-line training and were briefed by the ARSO-I on NIV and ACS fraud in August. Two Munich LES also participated in the H&L conference.

The Frankfurt FPU remains in touch with all posts in Mission Germany regarding fraud trends. In addition, all posts have access to

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Mission Germany's fraud intranet site, which has up-to-date information about country fraud trends, document alerts, travel and vital documents.

ALFORD